

# McNamara Declaration

## Exhibit 98

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**From:** James D. Jenkins  
**Sent:** Monday, February 11, 2013 5:15 PM EST  
**To:** Internet Archive  
**Subject:** Re: Copyright infringement

Dear Mr Butler,

The four books I wrote about are not being made available in any "limited" way: *they are available to any person to view the entire book at no charge* -- I know, because I signed up for an account and opened and looked at them. It is a violation of the copyright law to store these books in your system and distribute them in this way, and, nonprofit or not, your company would presumably be subject to damages and injunctive relief, including perhaps substantial statutory damages in the case of John Braine's *Room at the Top*, which was duly registered and renewed with the U.S. Copyright Office.

Although I understand what the purpose of your organization is, it remains true that distributing copyright works in this way is a violation of the law and harms publishers and authors (or their estates), who depend on being able to sell the works for their livelihood.

Again, I ask that the four works I identified in my emails be removed without delay.

Although I sent takedown notices under DMCA this time in the hopes that this could be resolved quickly and easily, if this remains an ongoing problem, I may have no choice but to investigate other legal options.

Many thanks for your response and for your prompt attention to this matter.

Sincerely yours,

James D. Jenkins  
Attorney at Law  
Publisher & Editor  
Valancourt Books  
<http://www.valancourtbooks.com>  
[REDACTED]

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**From:** Internet Archive <info-reply@archive.org>  
**To:** James D. Jenkins <[REDACTED]@valancourtbooks.com>  
**Sent:** Monday, February 11, 2013 4:06 PM  
**Subject:** Re: Copyright infringement

Dear Mr. Jenkins, Esq.,

Thank you for contacting us about this matter.

As it may not be entirely clear, I would like to ensure that you are aware of the very limited ways in which the texts of concern are made available at [openlibrary.org](http://openlibrary.org), as well as the nature of our organization and services. Internet Archive is a 501.c3 non-profit online library and does not exploit materials in its collections at [archive.org](http://archive.org) or [openlibrary.org](http://openlibrary.org) for commercial gain. The titles identified in your notices (attached) may be made available in two limited ways:

1. to registered blind and print-disabled patrons through a special initiative undertaken by our organization, as an encrypted file in a specialized format (DAISY file) that works with devices designed to read aloud text for the blind and print-disabled. We do this in coordination with the Library of Congress' National Library Service for the Blind and Physically Handicapped (NLS), which provides registered and approved blind and print-disabled citizens with an encryption key that will enable the file to play. We have posted more information about this program at <http://blog.archive.org/2010/11/26/3424/> and you can find information about the Library of Congress' own program and requirements for eligibility at <http://www.loc.gov/nls/eligible.html>.
2. via our In-Library Lending Program, which enables an electronic copy to be borrowed by those in an area served by a physical library which participates in our program (you can see a list of libraries at [openlibrary.org/libraries](http://openlibrary.org/libraries) and find our announcement of the program at <http://blog.archive.org/2011/06/25/in-library-ebook-lending-program-expands-to-1000-libraries/>). When an electronic copy of a book is checked out by a patron, that copy is not available to others. After a two-week period, the electronic copy expires and throughout the lending period is protected from copying in a manner similar to how ebooks are protected when distributed by booksellers.

In short, we have sought to limit the availability of more recent books through our site to ways which are analogous to how physical libraries lend to the public and make available books to the print-disabled outside of the scope of licensing, such as inter-library loans and the special distribution of materials in accessible formats that libraries have been allowed to offer specifically for blind and print-disabled patrons.

Again, thank you for contacting us. We appreciate whatever consideration these explanations afford the matter anew. Please let us know if your claims still stand. I am at your service if you have continuing objections or further questions.

Best Regards,

Christopher Butler  
Office Manager  
Internet Archive  
  
[www.archive.org](http://www.archive.org)

On 2/11/2013 5:11 AM, James D. Jenkins wrote:

Attn: Copyright Agent, Open Library

Pursuant to 17 USC 512(c)(3)(A), this communication serves as a statement that:

1. I am the exclusive U.S. rights holder for ROOM AT THE TOP by John Braine;
2. These exclusive rights are being violated by material available upon your site at the following URL(s): [http://openlibrary.org/works/OL15392117W/Room at the top](http://openlibrary.org/works/OL15392117W/Room%20at%20the%20top)
3. I have a good faith belief that the use of this material in such a fashion is not authorized by the copyright holder, the copyright holder's agent, or the law;
4. Under penalty of perjury in a United States court of law, I state that the information contained in this notification is accurate, and that I am authorized to act on the behalf of the exclusive rights holder for the material in question;
5. I may be contacted by the following methods (include all): Valancourt Books, P.O. Box 8852, Kansas City, MO 64114; [REDACTED]; [REDACTED]@valancourtbooks.com;

I hereby request that you remove or disable access to this material as it appears on your service in as expedient a fashion as possible. Thank you.

Regards,

James D. Jenkins  
Attorney at Law  
Publisher & Editor  
Valancourt Books  
<http://www.valancourtbooks.com>  
[REDACTED]

Attn: Copyright Agent, Open Library

Pursuant to 17 USC 512(c)(3)(A), this communication serves as a statement that:

1. I am the exclusive U.S. rights holder for THE PHILOSOPHER'S STONE by COLIN WILSON;
2. These exclusive rights are being violated by material available upon your site at the following URL(s): [http://openlibrary.org/works/OL102106W/The philosophers stone](http://openlibrary.org/works/OL102106W/The%20philosophers%20stone)
3. I have a good faith belief that the use of this material in such a fashion is not authorized by the copyright holder, the copyright holder's agent, or the law;
4. Under penalty of perjury in a United States court of law, I state that the information contained in this notification is accurate, and that I am authorized to act on the behalf of the exclusive rights holder for the material in question;
5. I may be contacted by the following methods (include all): Valancourt Books, P.O. Box 8852, Kansas City, MO 64114; (816) 416-9876; jjenkins@valancourtbooks.com;

I hereby request that you remove or disable access to this material as it appears on your service in as expedient a fashion as possible. Thank you.

Regards,

James D. Jenkins  
Attorney at Law  
Publisher & Editor  
Valancourt Books

<http://www.valancourtbooks.com>  
[REDACTED]

Attn: Copyright Agent, Open Library

Pursuant to 17 USC 512(c)(3)(A), this communication serves as a statement that:

1. I am the exclusive U.S. rights holder for UNCLE STEPHEN by FORREST REID;
2. These exclusive rights are being violated by material available upon your site at the following URL(s): <http://openlibrary.org/works/OL6189507W/UncleStephen>
3. I have a good faith belief that the use of this material in such a fashion is not authorized by the copyright holder, the copyright holder's agent, or the law;
4. Under penalty of perjury in a United States court of law, I state that the information contained in this notification is accurate, and that I am authorized to act on the behalf of the exclusive rights holder for the material in question;
5. I may be contacted by the following methods (include all): Valancourt Books, P.O. Box 8852, Kansas City, MO 64114; [REDACTED]; [REDACTED]@valancourtbooks.com;

I hereby request that you remove or disable access to this material as it appears on your service in as expedient a fashion as possible. Thank you.

Regards,

James D. Jenkins  
Attorney at Law  
Publisher & Editor  
Valancourt Books  
<http://www.valancourtbooks.com>  
[REDACTED]

Attn: Copyright Agent, Open Library

Pursuant to 17 USC 512(c)(3)(A), this communication serves as a statement that:

1. I am the exclusive U.S. rights holder for YOUNG TOM by FORREST REID;
2. These exclusive rights are being violated by material available upon your site at the following URL(s): <http://openlibrary.org/works/OL15956762W/YoungTom> <http://openlibrary.org/works/OL15870113W/YoungTom>
3. I have a good faith belief that the use of this material in such a fashion is not authorized by the copyright holder, the copyright holder's agent, or the law;
4. Under penalty of perjury in a United States court of law, I state that the information contained in this notification is accurate, and that I am authorized to act on the behalf of the exclusive rights holder for the material in question;
5. I may be contacted by the following methods (include all): Valancourt Books, P.O. Box 8852, Kansas City, MO 64114; [REDACTED]; [REDACTED]@valancourtbooks.com;

I hereby request that you remove or disable access to this material as it appears on your service in as expedient a fashion as possible. Thank you.

Regards,

James D. Jenkins  
Attorney at Law  
Publisher & Editor  
Valancourt Books  
<http://www.valancourtbooks.com>

